

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW MEXICO**

WE THE PATRIOTS USA, INC,	:	
DENNIS SMITH,	:	Civil Action No. 1:23-cv-00773
	:	
Plaintiffs,	:	
	:	
v.	:	
	:	
MICHELLE LUJAN GRISHAM,	:	
in her official capacity only, PATRICK	:	
M. ALLEN, in his official capacity only,	:	
JASON R. BOWIE, in his official	:	
capacity only, TROY WEISLER, in his	:	
official capacity only, HAROLD	:	
MEDINA, in his official capacity only,	:	
	:	
Defendants.	:	SEPTEMBER 9, 2023

**COMPLAINT**

1. The past three years have effectuated tremendous changes in the American way of life due to the health dangers posed by the COVID-19 pandemic. Courts repeatedly approved state infringements on civil liberties to protect public health. The Supreme Court, however, reminded states that, even during public health crises, “the Constitution cannot be put away and forgotten.” *Roman Catholic Diocese of Brooklyn v. Cuomo*, 141 S.Ct. 63, 68 (2020).

2. The expansion of state police power for public health protection remains a dangerous slippery slope where constitutional rights yield to expansive claims that regulation is necessary to protect the public health. Once a state starts descending the slippery slope of a public health state, the “compelling” exceptions to constitutional rights

– if there are truly any – begin to swallow the guarantees of rights themselves. This action presents a case in point.

3. Late on the afternoon of Friday, September 8, 2023, New Mexico Governor Michelle Lujan Grisham issued Executive Order 2023-130 and declared gun violence “a statewide public health emergency of unknown duration.” **Exhibit A, p. 2.** New Mexico Public Health Secretary Patrick M. Allen then wasted no time issuing a public health order dated September 8, 2023 banning the carrying of firearms in cities or counties that meet certain crime statistics. **Exhibit B, p. 2.**

4. The practical effect of this order is to ban the public carrying of handguns and other firearms for the lawful purpose of self-defense in New Mexico’s largest city – Albuquerque.

5. The United States Supreme Court reshaped its Second Amendment jurisprudence in *New York State Rifle & Pistol Association, Inc. v. Bruen*, 142 S.Ct. 2111 (2022). It held that the Second Amendment protects a right to carry firearms in public, and it reached two conclusions regarding lawful restrictions on that right:

- a. First, “[s]tates could lawfully eliminate one kind of public carry – concealed carry – so long as they left open the option to carry openly.” *Id.* at 2150.
- b. Second, governments may not classify entire cities as “sensitive places” in order to ban any carrying of firearms in public. *Id.* at 2133.

6. New Mexico's new draconian gun laws completely deprive law-abiding citizens of Albuquerque and other large cities in New Mexico of their Second Amendment right to carry firearms for self-defense.

7. Thus, the Plaintiffs seek emergency and permanent injunctive relief from the Court enjoining the Defendants from enforcing Allen's September 8, 2023 public health order, a declaratory judgment that it violates the Second Amendment, attorneys' fees, and costs.

### **PARTIES**

8. Plaintiff We The Patriots USA, Inc. is a nonprofit public charity organized and operated exclusively for tax-exempt purposes in accordance with Section 501(c)(3) of the Internal Revenue Code. More specifically, it is dedicated to promoting constitutional rights, public safety, and other freedoms through education, outreach, and public interest litigation, thereby advancing religious freedom, medical freedom, parental rights, educational freedom, and public safety for all. As a Section 501(c)(3) public charity, it has members who participate in its tax-exempt activities as volunteers and committed community stakeholders bringing and supporting litigation in federal and state courts on a variety of constitutional and other freedom-related matters directly affecting their rights and interests. Some of its members are New Mexico residents affected by the matters complained of herein and share common claims to that brought by We The Patriots USA, Inc., in its representative capacity.

9. Plaintiff Dennis Smith is an Albuquerque, New Mexico resident and a member and support of We The Patriots USA, Inc.

10. Defendant Michelle Lujan Grisham is the governor of New Mexico. She is sued in her official capacity only.

11. Defendant Patrick M. Allen is the New Mexico Department of Health's Secretary. He is sued in his official capacity only.

12. Defendant Jason R. Bowie is the Secretary of the New Mexico Department of Public Safety. He is sued in his official capacity only.

13. Defendant Troy Weisler is the chief of New Mexico's State Police. He is sued in his official capacity only. As chief of New Mexico's State Police, Weisler is responsible for enforcing the orders issued by Defendants Grisham and Allen, which are complained of herein.

14. Defendant Harold Medina is the chief of the Albuquerque Police Department. He is sued in his official capacity only. Under state law, Medina must enforce the orders issued by Defendants Grisham and Allen, which are complained of herein.

#### **JURISDICTION**

15. The Court has jurisdiction over this action under 28 U.S.C. §§ 1331, 1343, 2201, and § 1651 as well as 42 U.S.C. § 1983. Venue is appropriate under 28 U.S.C. § 1391 because all of the parties are domiciled in New Mexico and all of the factual events giving rise to the cause of action occurred in New Mexico.

## **FACTUAL ALLEGATIONS**

### ***The Alleged Impetus For New Mexico's Violation Of The Second Amendment.***

16. On July 28, 2023, a 14-year-old boy produced a pistol and shot a 13-year-old girl in Questa, New Mexico while they were both hanging out with friends. **Exhibit C.** He allegedly obtained the pistol because the homeowner failed to properly secure it. *Id.*

17. On August 14, 2023, a criminal attempting a drive-by shooting of another individual shot and killed a 5-year-old girl at a trailer park in Albuquerque. **Exhibit D.**

18. On September 6, 2023, a criminal murdered an eleven-year-old boy in connection with what appears to be a road rage incident. **Exhibit E.**

19. Additionally, on May 15, 2023, a mentally disturbed teenager – Beau Wilson – killed three people in Farmington, New Mexico when he randomly walked through a neighborhood shooting at homes and drivers after he allegedly struggled to cope with his parents' divorce and being removed from his school's varsity wrestling team. **Exhibit F.**

20. Governor Grisham's office cited these incidents as her basis for declaring "gun violence" a public health emergency and banning the carrying of firearms in certain localities.<sup>1</sup>

### ***Grisham And Allen Ban The Carrying Of Firearms In Certain New Mexico Localities For 30 Days.***

21. In response to these incidents, Defendant Grisham issued, on September 8, 2023, Executive Order 2023-130, which declared "gun violence" a public health

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<sup>1</sup><https://www.governor.state.nm.us/2023/09/08/governor-announces-statewide-enforcement-plan-for-gun-violence-fentanyl-reduction-plan-includes-30-day-suspension-of-concealed-open-carry-in-albuquerque-and-bernalillo-county/>

emergency of unknown duration under New Mexico law. **Exhibit A, pp. 2.** She ordered Defendant Allen and other New Mexico state agencies to prepare an effective and coordinated response to the so-called emergency and ordered all local governments to enforce any directives issued under the executive order. *Id.* at p. 3.

22. Defendant Allen then issued a public health emergency order banning the public carry of firearms in public parks across New Mexico and in cities and counties that average 1,000 or more violent crimes per 100,000 residents per year since 2021 according to the FBI's Uniform Crime Reporting Program and more than 90 firearm-related emergency department visits per 100,000 residents from July 2022 to June 2023 according to the New Mexico Department of Public Health. **Exhibit B, p. 1.**

23. If a person willfully violates Allen's order, Allen and Defendant Bowie have the authority under New Mexico Stat. § 12-10A-19 to impose civil penalties of up to \$5,000 per violation.

24. Albuquerque, New Mexico meets the data thresholds established by Allen's order.

***Plaintiff Dennis Smith.***

25. Dennis Smith is a law-abiding retiree who has lived in Albuquerque for approximately 40 years.

26. Smith has held a concealed carry license for approximately 6 years, and he meets all of the federal and state requirements to lawfully obtain, possess, and carry firearms.

27. Smith's age makes it impossible for him to rely on speed of foot to elude an attacker or strength of body to overpower one. Thus, Smith regularly carries a handgun loaded and holstered on his body for the purpose of self-defense whenever he leaves his home.

28. Smith also engages in recreation on a weekly basis at New Mexico public parks – primarily Los Poblanos Open Space in Albuquerque, New Mexico.

29. He regularly carries his handgun when he uses Los Poblanos Open Spaces to protect himself from wild coyotes, stray dogs, and potential human attackers.

30. Smith will continue to carry his handgun in public within the City of Albuquerque as well as Los Poblanos Open Spaces despite the Defendants' orders and actions.

31. When Smith carries his handgun in violation of the Defendants' orders, he will violate the directives issued by the Defendants, and he will face a \$5,000 fine for each time that he violates the directives.

**COUNT ONE – 42 U.S.C. § 1983 CLAIM FOR VIOLATION OF THE SECOND AND FOURTEENTH AMENDMENTS**

32. Paragraphs 1 through 31 are incorporated herein.

33. The U.S. Supreme Court's decision in *New York State Rifle & Pistol Association, Inc. v. Bruen*, 142 S.Ct. 2111 (Jun. 23, 2022) has completely reshaped Second Amendment analysis in the United States.

34. Prior to *Bruen*, courts employed a combination of a malleable public-policy interest-balancing test and means-end scrutiny (e.g., strict scrutiny) to analyze Second

Amendment claims. See, e.g., *New York State Rifle and Pistol Ass'n, Inc. v. Cuomo*, 804 F.3d 242 (2d Cir. 2015).

35. *Bruen* abolishes the quasi-public policy and scrutiny analyses completely. Its reshaping of the analysis starts and ends with two basic principles:

- a. “[W]hen the Second Amendment’s plain text covers an individual’s conduct, the Constitution presumptively protects that conduct.” *Bruen*, 142 S.Ct. at 2126.
- b. “[T]he government must demonstrate that the regulation is consistent with this Nation’s historical tradition of firearm regulation.” *Id.*

36. The Second Amendment’s plain text indisputably covers the conduct that Smith and similarly situated members of We The Patriots USA, Inc. seek to engage in: the carrying of a pistol or revolver for the purpose of self-defense in case of confrontation.

37. The United States Supreme Court confirmed this interpretation in *Bruen*: “We too agree, and now hold, consistent with *Heller* and *McDonald*, that the Second and Fourteenth Amendments protect an individual’s right to carry a handgun for self-defense outside the home.” 141 S.Ct. at 2122, 2134.

38. Under *Bruen*, the burden of proof now falls on the Defendants to show historical analogues to New Mexico’s prohibition on the public carrying of handguns in the City of Albuquerque and in New Mexico public parks and forests that are both “well-established and representative.” *Id.* at 2133. There are no such historical analogues that can save their orders.



39. With respect to the Defendants' ban on carrying firearms in Albuquerque, *Bruen* conducted a thorough survey of the relevant historical analogues. Those analogues simply established that individuals cannot bear arms in a way that "spreads fear or terror among the people." *Id.* at 2144-46 (internal quotation marks omitted).

40. The only other analogue that the Supreme Court could locate were statutory prohibitions on the *concealed carry* of pistols and other small weapons. *Id.* at 2146-2147. These analogues though only permitted states to ban *concealed carry* if they did not ban *open carry*. *Id.* at 2146-47.

41. New Mexico's prohibition on the carrying of any firearms in any manner within the City of Albuquerque and public parks is not remotely similar to these analogues because it completely prohibits public carry rather than one of the two options: open carry or concealed carry. Thus, it violates Smith's Second and Fourteenth Amendment rights, the Second and Fourteenth Amendment rights of We The Patriots USA, Inc.'s members, and all other similarly situated New Mexico citizens.

42. With respect to New Mexico's prohibition on carrying firearms in public parks, history does not support the argument that public parks are "sensitive places."

43. *District of Columbia v. Heller*, 554 U.S. 570, 627 (2008) only cited two historical examples of "sensitive places:" "schools and government buildings." 554 U.S. at 626.

44. *Bruen* built on the specificity of *Heller's* examples, adding "legislative assemblies, polling places, and courthouses." 142 S.Ct. at 2133.

45. Neither these specific examples nor *Heller's* and *Bruen's* broader categories are remotely analogous to the Defendants' ban on carrying firearms in public parks. Our nation's history is also completely devoid of any suitable analogue to that prohibition.

46. In fact, our nation's history shows that, both before and after the adoption of the Second Amendment, public parks and their forerunners existed in America and no prohibitions on carrying firearms within them existed in any well-established form until well after the ratification of the Fourteenth Amendment.

47. In colonial times, village greens, commons, gardens, and squares constituted colonial forerunners to modern public parks. See Anne Beamish, *Before Parks: Public Landscapes in Seventeenth- and Eighteenth-Century Boston, New York, and Philadelphia*, 40 *Landscape J.* 1, 14 (2021) ("Today's American public park is deeply rooted in the seventeenth- and eighteenth-century utilitarian village green, common, square, and parade ground"). Almost none of them contained laws that prohibited the carrying of firearms in parks.

- a. For instance, America's oldest park – the Boston Common – did not have any rules or laws prohibiting the carrying of firearms within its confines.
- b. The parks developed at the order of New York Governor Thomas Dongan in 1686 did not have rules or laws prohibiting individuals from carrying firearms.

- c. The parks developed in Philadelphia in the early 1700s also did not have rules or laws prohibiting individuals from carrying firearms.

48. Thus, to the extent that the Defendants' order prohibits the carrying of firearms in New Mexico public parks, it violates Smith's Second and Fourteenth Amendment rights, the Second and Fourteenth Amendment rights of We The Patriots USA, Inc.'s members, and all other similarly situated New Mexico citizens

### **PRAYER FOR RELIEF**

Wherefore, the Plaintiffs seeks the following relief:

A. A declaratory judgment that the September 8, 2023 public health emergency order prohibiting the public carry of firearms in New Mexico for 30 days and Executive Order 2023-130's enforcement provision of the same violates the Second and Fourteenth Amendments to the United States Constitution;

B. A declaratory judgment that the September 8, 2023 public health emergency order prohibiting the public carry of firearms in New Mexico public parks for 30 days and Executive Order 2023-130's enforcement provision of the same violates the Second and Fourteenth Amendments to the United States Constitution;

C. A preliminary injunction barring the Defendants from enforcing the September 8, 2023 public health emergency order's prohibition on the public carrying of firearms in New Mexico for 30 days, its prohibition on the public carrying of firearms in New Mexico public parks for 30 days, and Executive Order 2023-130's enforcement provision of the same;

D. A permanent injunction barring the Defendants from enforcing the September 8, 2023 public health emergency order's prohibition on the public carrying of firearms in New Mexico for 30 days, its prohibition on the public carrying of firearms in New Mexico public parks for 30 days, and Executive Order 2023-130's enforcement provision of the same;

E. Costs and attorneys' fees;

F. Any such other and further relief that the Court deems just and reasonable.

The Plaintiffs,

By: /s/ Cameron L. Atkinson /s/  
Cameron L. Atkinson, Esq.  
*pro hac vice application pending*  
ATKINSON LAW, LLC  
122 Litchfield Rd., Ste. 2  
P.O. Box 340  
Harwinton, CT 06791  
Telephone: 203.677.0782  
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/s/ Jeremy M. Gay  
Jeremy M. Gay, Esq.  
Advocate Law Center, P.A.  
821 S. Ford Dr.  
Gallup, New Mexico 87301  
(505) 722-2055  
[Jeremy@alcpafirm.com](mailto:Jeremy@alcpafirm.com)

**PRO HAC VICE CERTIFICATION OF JEREMY M. GAY, ESQ. FOR CAMERON L. ATKINSON, ESQ.**

The undersigned hereby certifies, pursuant to Local Civil Rule 83.3, that he has reviewed the attached declaration of Cameron L. Atkinson, Esq. (**Exhibit G**) and all relevant information pertaining to it. He certifies that Atkinson is a member in good standing of the Connecticut bar, and he agrees to associate with Atkinson for purposes of this action and accept service on his behalf.

*/s/ Jeremy M. Gay*

Jeremy M. Gay  
Advocate Law Center, P.A.  
821 S. Ford Dr.  
Gallup, New Mexico 87301  
(505) 722-2055  
[Jeremy@alcpafirm.com](mailto:Jeremy@alcpafirm.com)

# **Exhibit A**



## State of New Mexico

Michelle Lujan Grisham  
*Governor*

### **EXECUTIVE ORDER 2023-130**

#### **DECLARING STATE OF PUBLIC HEALTH EMERGENCY DUE TO GUN VIOLENCE**

**WHEREAS**, New Mexico consistently has some of the highest rates of gun violence in the nation;

**WHEREAS**, the rate of gun deaths in New Mexico increased 43% from 2009 to 2018, compared to an 18% increase over this same time period nationwide;

**WHEREAS**, guns are the leading cause of death among children and teens in New Mexico, and have led to the deaths of a thirteen-year-old girl on July 28, a five-year-old girl on August 14, and an eleven-year-old boy on September 6;

**WHEREAS**, New Mexico has recently experienced an increasing amount of mass shootings, including mass shootings in Farmington and Red River this year;

**WHEREAS**, these gun-related deaths and injuries have resulted in devastating physical and emotional consequences for individuals, families, and communities throughout the State;

**WHEREAS**, the impact of gun violence extends beyond physical injuries and fatalities—causing emotional trauma, economic burdens, and long-lasting consequences for those affected individuals and their families;

**WHEREAS**, the increasing number of gunshot victims strains our already over-burdened healthcare system and places undue pressure on medical professionals and resources;

**WHEREAS**, after consulting with the Secretary of the Department of Health, I have determined that the foregoing situation constitutes a statewide public health emergency of unknown duration, as defined by the Public Health Emergency Response Act; and

**WHEREAS**, the foregoing situation also constitutes a man-made disaster causing or threatening widespread physical or economic harm that is beyond local control and requiring the resources of the State pursuant to the All Hazard Emergency Management Act.

**NOW, THEREFORE, I**, Michelle Lujan Grisham, Governor of the State of New Mexico, by the authority vested in me by the Constitution and laws of the State of New Mexico, do hereby **DECLARE** that a state of public emergency exists throughout the State due to gun violence and **ORDER** and **DIRECT** as follows:

1. The Department of Public Health, Department of Homeland Security and Emergency Management, and Department of Public Safety shall immediately begin collaborating with my Office to provide an effective and coordinated response to this public health emergency.

2. The Department of Finance and Administration shall make available emergency financial resources in an amount not to exceed seven hundred fifty thousand dollars (\$750,000.00) to the to the Department of Health, Department of Homeland Security and Emergency Management, and/or Department of Public Safety, in accordance with NMSA 1978, Sections 12-11-23 to -25. Funds shall be expended for the purpose of complying with this Order and shall be expended specifically to avoid and minimize economic or physical harm and to protect the public health, safety, and welfare. Funds shall be paid out upon warrants drawn by the Secretary of Finance and Administration upon vouchers approved by the Governor or an agent or agency designated by her for that purpose.



3. All mayors, sheriffs, and members of governing bodies of municipalities or counties are encouraged to request, if necessary, an emergency proclamation and implementation of temporary additional restrictions to address this public health emergency pursuant to the Riot Control Act.


4. All political subdivisions of the State shall comply with and enforce all directives issued pursuant to this Order.

**I FURTHER ORDER and DIRECT** as follows:

1. This Order supersedes any previous orders, proclamations, or directives to the extent they are in conflict.

2. This Order shall take effect immediately and shall remain in effect until October 6, 2023.

ATTEST:



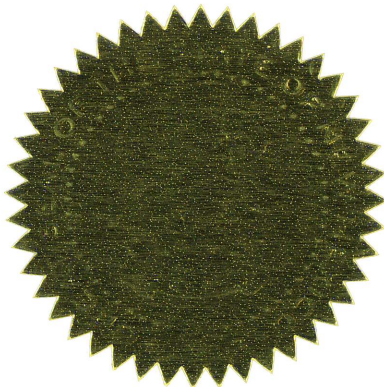
MAGGIE TOULOUSE OLIVER  
SECRETARY OF STATE

DONE AT THE EXECUTIVE OFFICE  
THIS 7TH DAY OF SEPTEMBER 2023

WITNESS MY HAND AND THE GREAT  
SEAL OF THE STATE OF NEW MEXICO



MICHELLE LUJAN GRISHAM  
GOVERNOR



# **Exhibit B**



MICHELLE LUJAN GRISHAM  
Governor

PATRICK M. ALLEN  
Cabinet Secretary

**PUBLIC HEALTH ORDER  
NEW MEXICO DEPARTMENT OF HEALTH  
SECRETARY PATRICK M. ALLEN**

**September 8, 2023**

**Public Health Emergency Order Imposing Temporary Firearm  
Restrictions, Drug Monitoring and Other Public Safety Measures**

**WHEREAS**, for the reasons stated in Governor Michelle Lujan Grisham's Executive Orders 2023-130 and 2023-132, gun violence and drug abuse currently constitute statewide public health emergencies, as defined in the Public Health Emergency Response Act;

**WHEREAS**, pursuant to those Executive Orders, I have begun collaborating with the New Mexico Department of Homeland Security and Emergency Management, the New Mexico Department of Public Safety, and the Governor's Office to provide an effective and coordinated response to these public health emergencies;

**WHEREAS**, the New Mexico Department of Health possesses legal authority pursuant to the Public Health Act, NMSA 1978, Sections 24-1-1 to -40, the Public Health Emergency Response Act, NMSA 1978, Sections 12-10A-1 to -19, the Department of Health Act, NMSA 1978, Sections 9-7-1 to -18, and inherent constitutional police powers of the New Mexico state government to preserve and promote public health and safety, to maintain and enforce rules for the control of a condition of public health importance; and

**WHEREAS**, temporary firearm restrictions, drug monitoring, and other public safety measures are necessary to address the current public health emergencies.

**NOW, THEREFORE, I**, Patrick M. Allen, Secretary of the New Mexico Department of Health, in accordance with authority vested in me by the Constitution and the Laws of the State of New Mexico, and as directed by the Governor pursuant to the full scope of emergency powers under the All Hazard Emergency Management Act, do hereby **DECLARE** that gun violence and drug use constitute conditions of public health importance, as defined in NMSA 1978, Section 24-1-2(A), and hereby **ORDER** and **DIRECT** as follows:

(1) No person, other than a law enforcement officer or licensed security officer, shall possess a firearm, as defined in NMSA 1978, Section 30-7-4.1, either openly or concealed, within cities or counties averaging 1,000 or more violent crimes per 100,000 residents per year since 2021 according to Federal Bureau of Investigation's Uniform Crime Reporting Program AND more than 90 firearm-related emergency department visits per 100,000 residents from July 2022 to June 2023 according to the New Mexico Department of Public Health, except:

A. On private property owned or immediately controlled by the person;

**OFFICE OF THE SECRETARY**

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(505) 827-2613 • FAX: (505) 827-2530 • [www.nmhealth.org](http://www.nmhealth.org)



B. On private property that is not open to the public with the express permission of the person who owns or immediately controls such property;

C. While on the premises of a licensed firearms dealer or gunsmith for the purpose of lawful transfer or repair of a firearm;

D. While engaged in the legal use of a firearm at a properly licensed firing range or sport shooting competition venue; or

E. While traveling to or from a location listed in Paragraphs (1) through (4) of this section; provided that the firearm is in a locked container or locked with a firearm safety device that renders the firearm inoperable, such as a trigger lock.

(2) The New Mexico Regulation and Licensing Department shall conduct monthly inspections of licensed firearms dealers in the State to ensure compliance with all sales and storage laws.

(3) The Department of Health shall, within 20 days, compile and issue a comprehensive report on gunshot victims presenting at hospitals in New Mexico, which shall include (if available): demographic data of gunshot victims, including age, gender, race, and ethnicity; data on gunshot victim's healthcare outcomes; the brand and caliber of the firearm used; the general circumstances leading to the injury; the impact of gunshot victims on New Mexico's healthcare system; and any other pertinent information.

(4) No person, other than a law enforcement officer or licensed security officer, shall possess a firearm on state property, public schools, and public parks.

(5) The New Mexico Department of Health and the New Mexico Environmental Department shall develop a program to conduct wastewater testing for illicit substances, such as fentanyl, at all public schools.

(6) The Children, Youth and Families Department shall immediately suspend the Juvenile Detention Alternative Initiative and evaluate juvenile probation protocols.

(7) The Department of Public Safety shall dispatch additional officers and resources to Bernalillo County and work with the Albuquerque Police Department and Bernalillo County Sheriff to determine the best use of those resources.

(8) The Department of Public Safety shall coordinate with local law enforcement agencies and the district attorneys' offices and assist in apprehension of individuals with outstanding arrest warrants.

**I FURTHER DIRECT** as follows:

(1) This Order shall be broadly disseminated in English, Spanish, and other appropriate languages to the citizens of the State of New Mexico.

(2) Trigger locks shall be made available free of charge to all firearm owners; provided that each firearm owner shall only be entitled to one free trigger lock. Firearm owners wishing to obtain a free trigger lock should call 505-984-3085 or email [info@newmexicanstoppreventgunviolence.org](mailto:info@newmexicanstoppreventgunviolence.org).

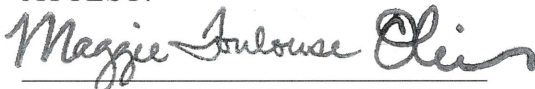
(3) The New Mexico Department of Health, the New Mexico Department of Public Safety, the New Mexico Department of Homeland Security and Emergency Management, and all other State departments and agencies are authorized to take all appropriate steps to ensure compliance with this Order.

(4) Any person or entity who willfully violates this Order may be subject to civil administrative penalties available at law.

(5) This Order shall take effect on September 8, 2023, and remain in effect for the duration of the public health emergencies declared in Executive Orders 2023-130 and 2023-132 and any subsequent renewals of those public health emergency declarations, unless otherwise rescinded.

(6) Should any provision of this Order or its application to any person or circumstances be held invalid by a court of law, the remainder of this Order or the application of its provisions to other persons or circumstances shall remain in full force and effect.

ATTEST:



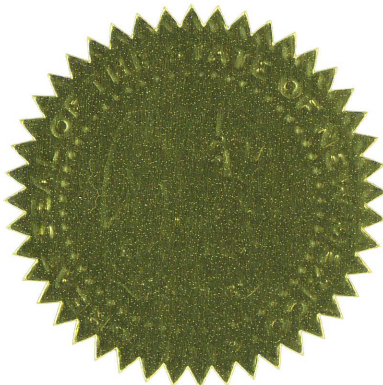
MAGGIE TOULOUSE OLIVER  
SECRETARY OF STATE

DONE AT THE EXECUTIVE OFFICE  
THIS 8TH DAY OF SEPTEMBER 2023

WITNESS MY HAND AND THE GREAT  
SEAL OF THE STATE OF NEW MEXICO



PATRICK M. ALLEN  
SECRETARY OF THE  
NEW MEXICO DEPARTMENT OF HEALTH



# **Exhibit C**



NM Department of Public Safety

Home



English

Home NMLEA NMSP Law Enforcement Support Services What's Happening Careers

# NEW MEXICO STATE POLICE INVESTIGATE HOMICIDE IN QUESTA

NMDPS Home > NMSP Press Releases

> New Mexico State Police Investigate Homicide in Questa

Manage consent

For Immediate Release

July 29, 2023

Questa, NM – On July 28, 2023, the New Mexico State Police Investigations Bureau was requested to investigate a homicide at the residence of William Brown at 104 Cabresto Road in Questa.

Investigations Bureau agents learned that on July 28, 2023, at around 2:30 p.m., four juveniles were hanging out at the residence listening to music. At some point, a 14-year-old male took out a pistol and pointed it at a 13-year-old female. The male pulled the trigger, fatally wounding the female. The male then dragged the female's body outside and returned to the residence.

Shortly after the homicide, the father of the juvenile suspect, William Brown, 39, arrived at the residence and went inside. When officers arrived, the juvenile and Brown refused to come out of the residence for approximately 30 minutes.

The juvenile was arrested and charged with an Open Count of Murder in the First Degree, Tampering with Evidence (2 counts),



and Assault on a Police Officer (2 counts). He was booked into the San Juan Juvenile Detention Center in Farmington.

William Brown, who owned the firearms inside the residence was arrested and charged with Negligent Making a Firearm Accessible to a Minor Resulting in Death. He was booked into the Taos County Detention Center.

Out of respect for the victim's family, the New Mexico State Police will not release the name of the juvenile victim. We also will not release the name of the juvenile suspect via press release.

This incident is still being actively investigated by the New Mexico State Police Investigations Bureau. Throughout the investigation, information will be shared with the appropriate district attorney's office. Once complete the investigation will be turned over to the district attorney's office.

# ARRESTED



# William Brown

###



## Location

### Mailing Address

Post Office Box 1628  
Santa Fe, NM 87504-1628

### Physical Address

4491 Cerrillos Rd.  
Santa Fe, NM 87507

## Sitemap

NMLEA

NMSP

Recruiting Bureau

Law Enforcement Support  
Services

Public Information

## Quick Links

[IPRA](#)

[Missing Persons](#)

[Concealed Carry Unit](#)

[Fingerprinting & Background](#)

## Social Media Links



Checks

NM Roads

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## **Exhibit D**

# APD: 2 cars recovered, possibly tied to fatal shooting of 5-year-old girl

By KOB

Updated: August 15, 2023 - 3:56 PM

Published: August 14, 2023 - 6:42 PM



ALBUQUERQUE, N.M. — Two cars have been recovered in connection to the fatal shooting of a 5-year-old girl at a trailer park home **early Sunday morning**, according to Albuquerque police.

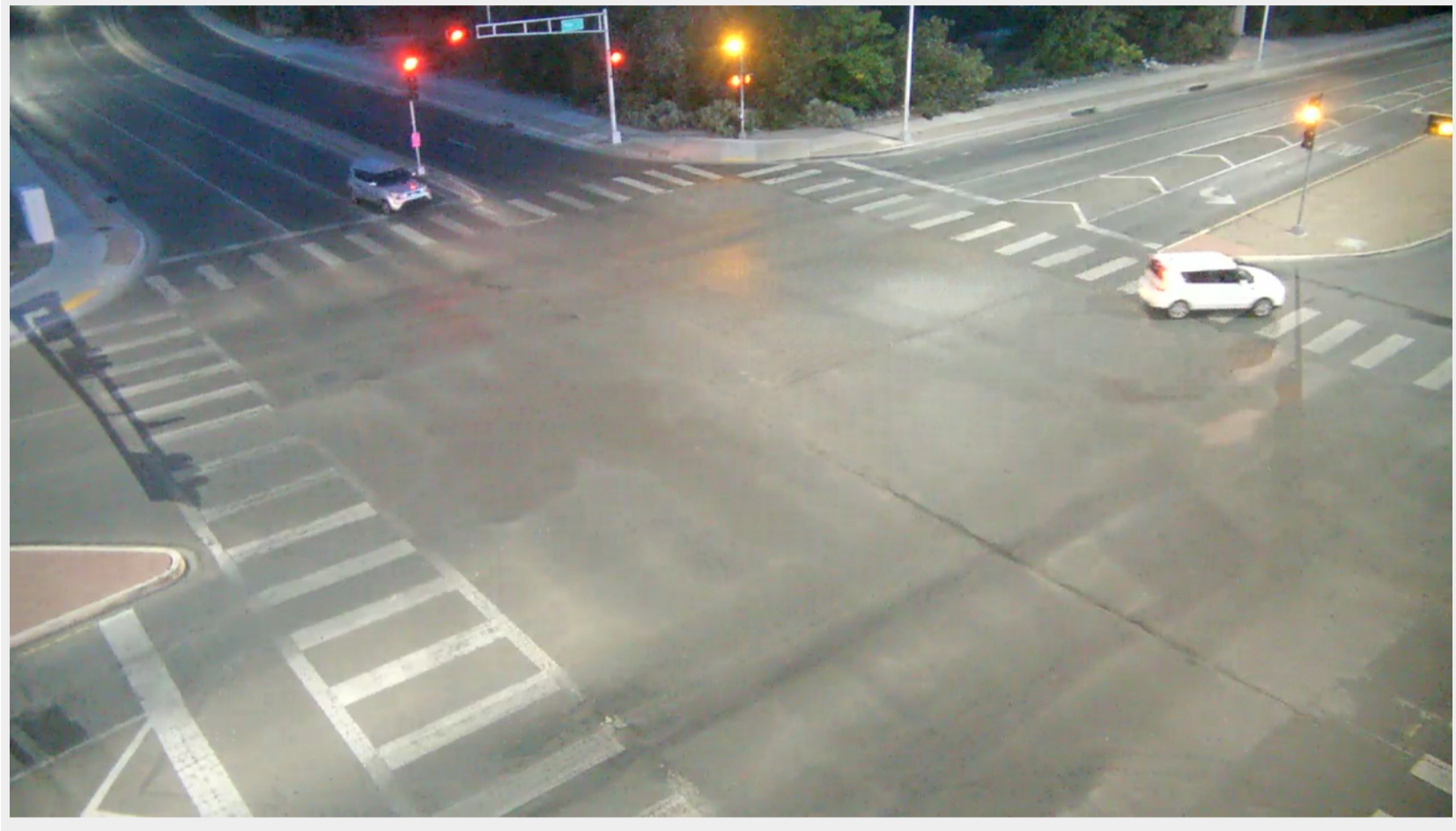
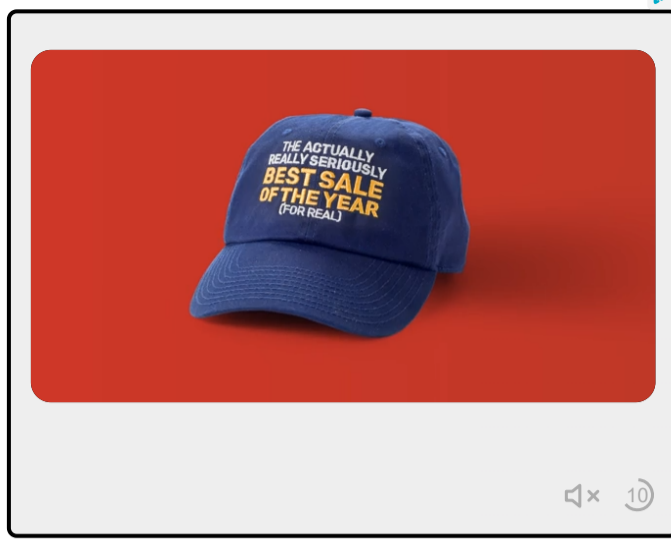
According to APD, they have recovered evidence from two Kia Soul cars, and they are being analyzed by investigators.



In an update Monday, police identified the victim as Galilea Samaniego.

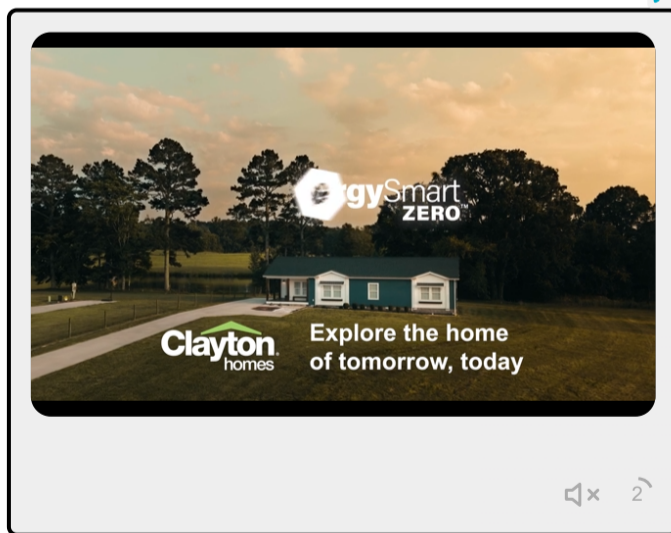
“While we can’t go into the circumstances of the recovered vehicles, we have reason to believe they may be connected to the drive-by shooting that took the life of an innocent, 5-year-old girl,” said APD Chief Harold Medina in a press release. “We also believe several people have information that can help our detectives with this investigation. We urge those individuals to come forward and do the right thing. Help us bring justice to Galilea Samaniego.”

Police say she did not live at the trailer, but she was staying the night and sleeping in a front room facing the street when someone fired a gun into the trailer shortly before 6 a.m. Sunday.



"It appears at this point that the offender intended to shoot someone else, but blindly shot into a residence and tragically killed this young girl," said Medina. "We believe there are people in the community who can provide details about this shooting. I hope they have a conscience and reach out to detectives so they can bring justice to this victim."

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Anyone with information can contact police at 505-242-COPS. Anonymous tips can be made to Albuquerque Metro Crime Stoppers at 505-843-STOP.









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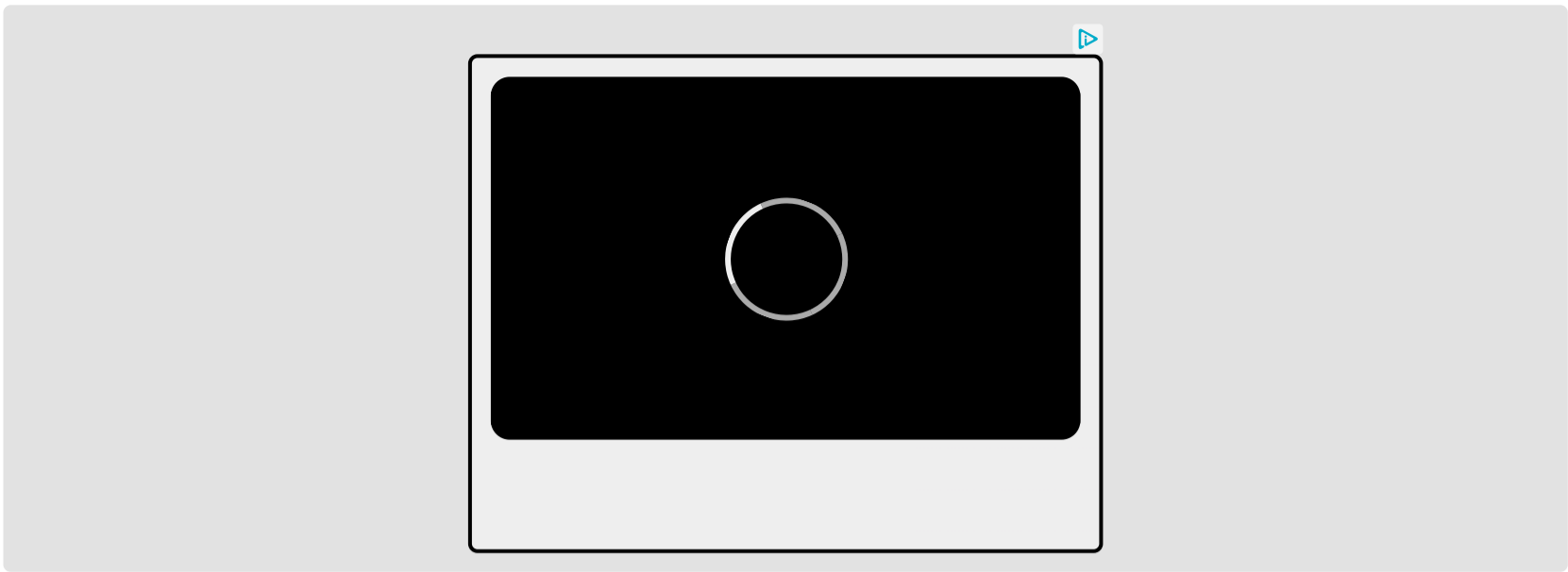


**Police ID 11-year-old boy killed in road rage shooting near Isotopes Park**



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# **Exhibit E**



ABQ RAW · 24 hours ago · 2 min read

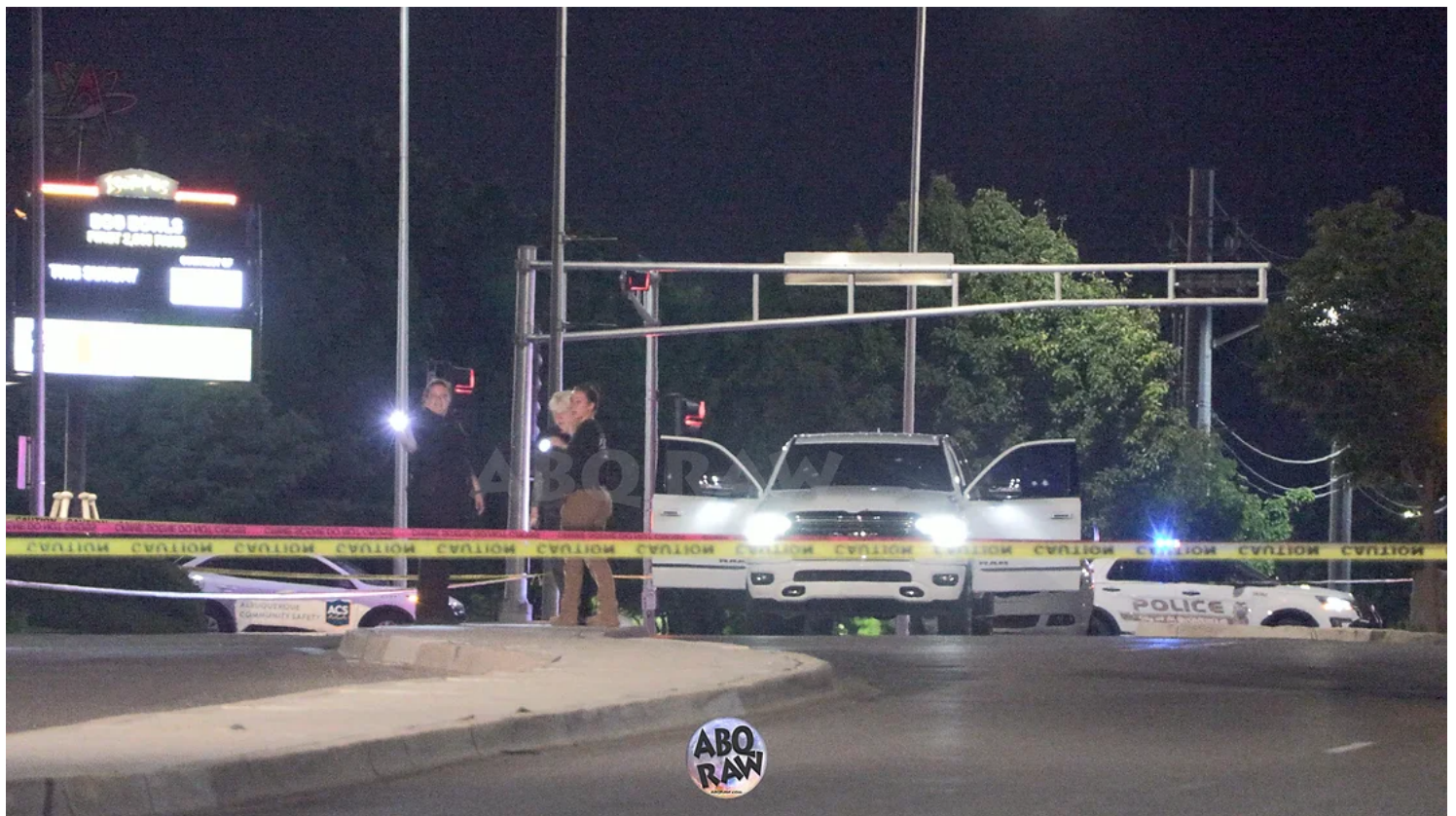
# APD Releases Identity of 11-Year-Old Homicide Victim

Posted By: ABQ RAW Staff

Posted On: 09/08/2023 @12:15PM

UPDATE: 09/08/2023 @3:15PM (\*\*SEE BELOW\*\*)

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APD investigators look over a scene of a homicide on September 6th, 2023 - © 2023 ABQ RAW All Rights Reserved

## Albuquerque -

On Friday, September 8, 2023, the Albuquerque Police Department released the name of the eleven-year-old victim from Wednesday's homicide at 1155 Avenida Cesar Chavez, S.E. The boy's name is Froylan\*\* Villegas and according to APD, he was born in July 2012.

APD also disclosed that the female victim, who is reportedly the aunt of Froylan, was injured in the shooting, she sustained significant injuries, and her condition is currently considered unstable. As of this post, her identity has

not been released.

On Thursday, September 7, 2023, the authorities released information about the suspect's vehicle involved in the incident. The vehicle in question is believed to be a newer model Dodge Durango SRT SUV. APD believes that the occupants of this vehicle are directly connected to the homicide that occurred near the intersection of Avenida Cesar Chavez and University Blvd on September 6, 2023. APD advises people that if they happen to see a vehicle matching this description, they should not approach the vehicle or its occupants.

At a press conference held today for a different topic, we asked APD for updates on this shooting. APD stated that no one is currently in custody, and when our reporter pressed to find out how many tips had been called in to police, Chief Medina declined to answer.



APD: Suspect's Vehicle from Homicide that Occurred on 9/6/2023

APD is asking that if you have any information, please contact Crimestoppers at (505) 843-STOP (7867). They are also asking people to not approach the vehicle or its occupants. or submit tips online at [p3tips.com/531](https://p3tips.com/531). Again, if you know anything, you can remain completely anonymous.



APD: Suspect Vehicle's from Homicide that Occurred on 9/6/2023

**\*\*UPDATE:\*\***

At 3:03PM, APD sent out an email that said:

**CORRECTION:**

The boy's name does not have a "d." The correct spelling is: Froylan Villegas.

The original email that we received at 12:10pm, with the victim's name misspelled as Froyland, came from APD's Civilian PIO Gilbert Gallegos.

## 11 year old Child Murdered in Road Rage Incident





# **Exhibit F**

EXCLUSIVE

GUNS IN AMERICA

# New Mexico teen who gunned down 3 women struggled after leaving wrestling team, family and team members say

Beau Wilson, 18, felt forced to quit the team, an outlet that kept him steady amid upheaval in his personal life, his mother and former team members said.

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OFFICIALS PROVIDE MORE DETAILS ON NEW MEXICO SHOOT



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May 19, 2023, 7:42 PM EDT

By **Melissa Chan**

Days after a New Mexico 18-year-old [gunned down three elderly women in an indiscriminate shooting rampage](#), police have not yet publicly discussed a motive or revealed why a teenager hours shy from graduation would commit such a horrific crime.

He killed Shirley Voita, 79, Melody Ivie, 73, and Gwendolyn Schofield, 97, who were all in cars. Schofield was Ivie's mother. Armed with three weapons, including an AR-15 rifle he legally

purchased, he stepped out of his father's Farmington home Monday morning and unleashed a hail of bullets upon neighboring houses and passing cars before officers fatally shot him.



— Beau Wilson. Courtesy Brent Stover

Authorities have said that interviews with his family and a note found in his pocket indicated that the student had mental health issues. Friends and family members who spoke to NBC News

about Beau Wilson said the teenager constantly fell behind in classes and struggled to deal with his parents' ongoing divorce.

One particular point of strife in his life, they said, was leaving his high school's varsity wrestling team in late February. The exit was due in large part to a strained relationship with his head coach, according to Daxton Allison, one of Wilson's former teammates, and Brent Stover, a Farmington High School wrestling coach who recently resigned.

Wilson's mother, Lorry Rodriguez, said her son relied on the team for a sense of purpose and peace as his home and school life crumbled.

"His life was going to practice, and when he didn't have that, he had nothing," Rodriguez said. "He didn't have nothing to work for. That's all he knew."

Rodriguez blamed herself for not foreseeing the violence that unfolded. She said she knew Wilson had purchased a firearm, but she hadn't had any concerns about it.

"How did I not know? I ask myself that," she said.



— Painted circles mark locations where evidence related to a deadly shooting was collected in front of a church in Farmington, N.M., on Tuesday. Susan Montoya Bryan / AP

Wilson became the latest shooter to terrorize a community in a nation regularly plagued by gun violence, with shootings in recent weeks at a mall in Texas, a bank in Louisville and a Christian school in Nashville. Authorities said he fatally shot Ivie and Schofield after they stopped their vehicle to render aid to Voita.

A doorbell camera caught Wilson screaming “come and kill me” during the barrage, police said. He was wearing a bulletproof vest that he discarded before officers fatally shot him.

[At a news conference Thursday](#), Farmington Police Chief Steve Hebbe said he believed Wilson, in his final moments, “made a decision that he’s going to stand and fight it out until he’s killed.”

Mass shootings and suicides in general are commonly preceded by some sort of a life stressor, including job loss or a romantic rejection, but there is usually a combination of factors at play, according to Dr. Ragy Girgis, an associate professor of Clinical Psychiatry at the Columbia University Department of Psychiatry and New York State Psychiatric Institute.

In late February, Allison and Stover said Wilson chose to leave the team on his own because he could no longer stand the pressure from the head coach.

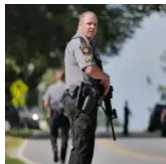
The coach told NBC News that Wilson was not on the team for the last part of the school year due to “disciplinary” reasons, but declined to comment further on those reasons as well as his relationship with Wilson and the claims about their apparent discord.

“What happened between Beau and I stays between Beau and I,” he said.

The day he left, Stover said he met up with Wilson and begged him to stick it out. But he said the teen was “mentally beat down” at that point.

For six weeks after that, Wilson stopped coming to school, Allison said.

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“Wrestling is always what kept him going and steady-minded,” said Allison, 18, who has known Wilson for more than a dozen years. “It was an outlet for him. When that got taken from him, he kind of just fell off the Earth.”

A person close to Wilson, who asked to remain anonymous, said Wilson’s exit from the team “absolutely crushed him.”

“It was his identity. It was his happy place, where he didn’t have to worry about things and felt included,” the person said. “And then that’s gone instantly, while he’s having this other hard time. I’m sure this exacerbated this tremendously.”

Artie Martinez, 36, Wilson’s older brother, said he was shocked that his brother stopped wrestling in his senior year, “which could have been a big year for him.” Artie Martinez, who lives in Arizona and was not intimately familiar with his brother’s struggles, said he also wrestled on the same team and left.

“When you’re that age, it seems like the world to you,” he said.



— Community members sing during a prayer vigil at Hills Church, on Monday, in Farmington, N.M.

Susan Montoya Bryan / AP

Farmington Municipal School District spokesperson Roberto Taboada said the district could not discuss if Wilson had possible disciplinary actions or absences. Taboada said school officials had spoken to the head coach, who described to them a “regular relationship with his student-athlete.”

Monday’s onslaught caught the team off guard. While Wilson had previously made remarks about harming himself, he never mentioned wanting to hurt anyone else, Allison and Stover said.

Wilson’s mother said her son was never diagnosed with a mental illness but that he was “shy,” “secluded” and had social anxiety among his peers. She said her son never mentioned to her that he wanted to harm himself.

To his former team members, Wilson’s mental health struggles were often visible, but the teenager didn’t like to share details about his personal life, they said.

“I tried to talk to him about it, but he wouldn’t open up about it,” said 18-year-old Ivan Smith Jr., a former team captain who just graduated.



Stover said he was in such disbelief to hear the news that day that he called Wilson’s phone immediately. “It’s evil, it’s unforgivable,” he said. “But I think it was a suicide by cop.”

Stover said he learned after the shooting that Wilson had reached out to two other teammates at some point before the shooting and was “talking crazy” in those conversations.

Hebbe said his department is serving subpoenas for school records. With no other statements, the police chief said the note found in Wilson's pocket is “about the best we’ve got” to determine a motive.

“I feel a little lost. I’m just wondering why,” Stover said. “He must have just felt like he was on his own.”

*If you or someone you know is in crisis, call 988 to reach the Suicide and Crisis Lifeline. You can also call the network, previously known as the National Suicide Prevention Lifeline, at 800-273-8255, text HOME to 741741 or visit [SpeakingOfSuicide.com/resources](https://www.speakingofsuicide.com/resources) for additional resources.* 🍀





Melissa Chan

Melissa Chan is a reporter for NBC News Digital with a focus on veterans' issues, mental health in the military and gun violence.

David K. Li contributed.

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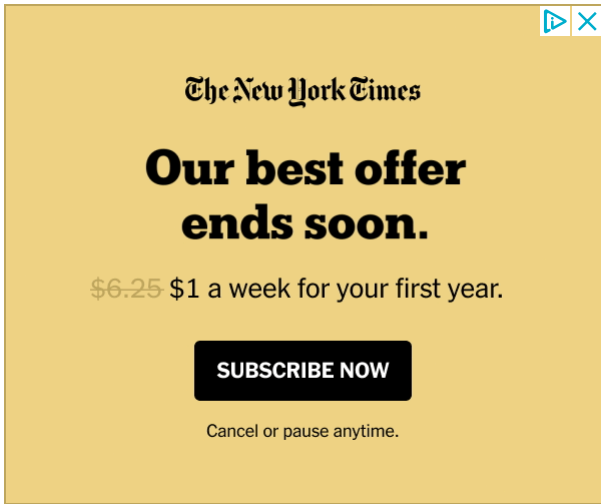
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# **Exhibit G**

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW MEXICO**

WE THE PATRIOTS USA, INC, :  
DENNIS SMITH, :

Plaintiffs, :

v. :

MICHELLE LUJAN GRISHAM, :  
in her official capacity only, PATRICK :  
M. ALLEN, in his official capacity only, :  
JASON R. BOWIE, in his official :  
capacity only, TROY WEISLER, in his :  
official capacity only, HAROLD :  
MEDINA, in his official capacity only, :

Defendants. :

**DECLARATION OF CAMERON L. ATKINSON, ESQ.**

Pursuant to 28 U.S.C. § 1746, Cameron L. Atkinson, Esq., having been duly sworn, does hereby depose and state as follows:

1. I am over 18 years of age and understand and believe in the obligations of an oath.

2. I make this declaration pursuant to 28 U.S.C. § 1746 and understand that the same obligations applicable to an affidavit apply to the statements made within.

3. I submit this declaration in support of my application for pro hac vice admission the above-captioned case.

4. I am counsel of choice for the Plaintiffs Dennis Smith and We The Patriots USA, Inc.

5. I am a member in good standing of the bars of the following courts:



- a. Connecticut (Juris No. 442289);
- b. United States District Court for the District of Connecticut (ct31219);
- c. United States District Court for the District of Columbia;
- d. United States Court of Appeals for the Second Circuit;
- e. United States Court of Appeals for the D.C. Circuit;
- f. United States Court of Appeals for the Seventh Circuit.

6. I have reviewed the Federal Rules of Civil Procedure and the District of New Mexico's Local Civil Rules, and I am familiar with them.

7. I have associated with Attorney Jeremy Gray – a member of the Court's bar – and I agree that he may accept service of all documents for me in the above-captioned matter.

8. Wherefore, I respectfully request that the Court grant my application to appear in this matter *pro hac vice*.

I declare under the penalty of perjury that the foregoing is true and correct.

Executed: September 9, 2023

*Cameron L. Atkinson*  
\_\_\_\_\_  
Cameron L. Atkinson, Esq.